

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

ERIC CERVINI, WENDY DAVIS, DAVID  
GINS, and TIMOTHY HOLLOWAY,

**Plaintiff**

**VS**

ELIAZAR CISNEROS, HANNAH CEH,  
JOEYLYNN MESAROS, ROBERT  
MESAROS, DOLORES PARK, and JOHN  
and JANE DOES,

**Defendants**

**Civil Action No. 1:21-cv-00565-RP**

Hon. Robert Pitman

**ELIAZAR CISNEROS' OPPOSED EMERGENCY MOTION**  
**REQUESTING THAT THIS COURT AUTHORIZE AN**  
**INTERLOCUTORY APPEAL**

Defendant Eliazar Cisneros respectfully requests that this Court certify its March 23, 2022, Opinion and Order [ECF No. 64] for interlocutory appeal, or otherwise amend that Opinion and Order under 28 U.S.C. § 1292(b) to authorize Defendant Eliazar Cisneros to file an application for immediate interlocutory appeal of this Court's Opinion and Order. Specifically, Defendant Eliazar Cisneros requests leave authorizing him to seek interlocutory appeal on the question of the applicability of Ku Klux Klan Act of 1871, 42 U.S.C. § 1985(3), and whether it applies to private causes of action where no racial animus or state action is alleged.

The issues under this court's Opinion and Order [ECF No. 64] involve a controlling question of law; there are substantial grounds for differences of opinion, and an immediate appeal from the order may materially advance the ultimate termination of the litigation ( 28 U.S.C. § 1292(b)).

The issues in question and the potential for the harmful effect they could have and given the statutory time for Defendants to file an application for interlocutory appeal with the Fifth

Circuit Court of Appeals, Defendant Eliazar Cisneros respectfully requests that this Court hear this motion on an emergency basis and issue an expedited ruling granting this motion as soon as practicable, amending its prior Opinion and Order to reflect the certification for interlocutory appeal.

Defendant Eliazar Cisneros incorporates and joins in all the arguments and authorities espoused in the respective motions and briefs of defendants Dolores Parks, Joeylynn Mesaros and Robert Mesaros.

Respectfully submitted, this 1<sup>st</sup> day of April, 2022

/S/ Francisco R. Canseco

Francisco R Canseco

Texas Bar No. 03759600

***Pro Hac Vice***

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***Counsel for the Defendant Eliazar Cisneros***

### **CERTIFICATE OF CONFERENCE**

The undersigned Counsel for the Plaintiff hereby CERTIFIES that on the 1st day of April 2022 he conferred with Counsel for the Plaintiffs who stated that the Defendants are opposed the foregoing Motion.

/S/ Francisco R. Canseco

Francisco R. Canseco,

### **CERTIFICATE OF SERVICE**

I hereby certify that on April 1, 2022, a true and correct copy of the foregoing has been served on all counsel of record through the Electronic Case File System of the Western District of Texas, in compliance with the Federal Rules of Civil Procedure as well as via e-mail pursuant to an agreement of the parties.

/S/ Francisco R. Canseco

Francisco R. Canseco,